



memorandum
United States District Court

Middle District of North Carolina

TO: Public
FROM: Middle District of North Carolina
DATE: January 12, 2004
SUBJECT: Execution Directions

1. If judgment debtor is a corporation or company, the notice to judgment debtor of right to designate does not apply and execution may be issued within ten (10) days after final judgment, unless a stay pending appeal has been granted.
2. Request for Issuance of Execution shall be in writing, with principal, interest and costs figures broken down. Request should be accompanied by a USM-285 service form, as the Marshal serves the execution.
3. If the execution is to be served on an individual the requester must first file a motion that the clerk issue an order notifying the debtor of his rights pursuant to Rule 69 of the Federal Rules of Civil Procedure, and the Constitution and law of North Carolina. See Ex. 1. They must also submit an Order for the Clerk's signature. See Ex. 2.

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,)	
)	
Vs)	Civil Action No.
)	
Defendant)	

M O T I O N

Comes now the plaintiff and judgment creditor in the above-entitled action and moves that a notice from the court be served upon the defendant and judgment debtor advising him of his rights pursuant to Rule 69, Federal Rules of Civil Procedure, and the Constitution and laws of North Carolina.

In support of this motion the plaintiff shows the court that the judgment in this case in favor of the plaintiff has not been reversed, vacated, or satisfied; that no writ of execution has been issued by this court; and that this judgment in favor of the plaintiff is one on which execution may properly be issued after notice as provided by law.

This the ____ day of _____, 20____.

Attorney for the Plaintiff

Address_____

Telephone:_____

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

	Plaintiff,)	
)	
Vs)	Civil Action No.
)	
	Defendant,)	

ORDER

THIS CASE is before the Court on motion of the plaintiff that notice from the court be served upon the judgment debtor advising him of his rights.

IT APPEARING to the clerk that the motion should be granted pursuant to Rule 69, Federal Rules of Civil Procedure, Article X of the Constitution of North Carolina, and Articles 28 and 31 of Chapter 1 and Chapter 1C of the General Statutes of North Carolina; now therefore,

IT IS ORDERED that Notice of Right to Have Exemptions Designated, together with Schedule of Debtor's Assets Submitted in Support of Motion to Designate Exemption shall be served upon the judgment debtor.

This the ____ day of _____, 20 ____.

Clerk, United States District Court
Middle District of North Carolina

324 West Market Street
P.O. Box 2708
Greensboro, North Carolina 27402

Telephone: (336) 332-6030

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff Address	Case Number: _____
VERSUS	EXECUTION (Rule 69, F.R.Cv.P. and G.1-313(1); GS.1C, Art. 16)
Defendant Address	Defendant Address

TO THE UNITED STATES MARSHAL:
By the terms of a judgment rendered in favor of _____
against ,
_____ the following sums are now due:

Principal \$	Interest to date	Court Costs \$	Other	Total: \$
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For the United States Marshal's fees (see 28 U.S.C. § 1921) - \$ _____. Post-Judgment
interest _____ is computed on the principal at the legal rate from the date shown below:

Date from which interest due:	Legal rate of interest:	Date Judgment entered on docket:
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You are commanded to satisfy the judgment

☐ By demanding payment from the defendant

☐ Out of the personal property of the defendant, and if sufficient property cannot be found, then out of the real property belonging to the defendant on the day the judgment was entered on the docket of this Court as shown above or any time after that date.

☐ Except as to property set off as exempt (a list of which attached) out of the personal property of the defendant within your district, and if sufficient personal property cannot be found, then out of real property belonging to the defendant on the day the judgment was docketed in this court as shown above or any time after that date.

☐ Out of the property listed below which is excepted by law from the exemptions:

Description of property excepted from exemptions (if applicable)

Additional order for satisfying judgment

Date Issued: _____

This writ must be returned
within 90 days after the
date of issue.

Signature: _____

- ☐ Clerk, U.S. District Court
☐ Deputy Clerk

NOTICE TO THE JUDGMENT CREDITOR

You may serve this Notice and the Motion to Claim Exempt Property by mailing a copy of each, registered or certified mail, return receipt requested, address to the judgment debtor. To prove service, you must file an affidavit (notarized by a notary public) with the Clerk asserting that (1) a copy of the notice of rights and Motion to Claim Exempt Property was deposited in the post office for mailing by registered or certified mail, return receipt requested; (2) it was in fact received as evidenced by the attached registry receipt or other evidence of delivery; and (3) the genuine receipt or other evidence of delivery is attached. You must attach the post office delivery receipt to the affidavit. Alternatively, service of the motion may be effected by any person who is not a party and who is at least 18 years of age following the procedures set forth in Federal Rules of Civil Procedure 4(e)(2). If your attempted service by certified or registered mail or personal service fails, you may then serve the judgment debtor by mailing a copy of notice and motion to him at his last known address. To prove service, you must file a certificate with the Clerk that the notice and motion were served indicating why you used such service, the date the notice was mailed and the address to which it was mailed. Remember, you may NOT use service by regular first class mail until you have tried first to serve the judgment debtor personally or by certified or registered mail and such service was unsuccessful.

RETURN OF SERVICE

I certify that this Notice and a copy of a motion to claim exempt property were received and served as follows:

JUDGMENT DEBTOR 1

Date Served

Name of Judgment Debtor

- ☐ By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- ☐ By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- ☐ Other manner of service (specify)

JUDGMENT DEBTOR 2

Date Served

Name of Judgment Debtor

- ☐ By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- ☐ By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- ☐ Other manner of service (specify)

Signed:

Person Making Return (Printed)

Judgment Creditor (Plaintiff)

**NOTICE TO CLAIM
EXEMPT PROPERTY
(STATUTORY EXEMPTIONS)**

VERSUS

Judgment Debtor (Defendant)

N.C.G.S. 1C -1603(c)

I, the undersigned, move to set aside the property claimed below as exempt.

1. I am a citizen and resident of _____
2. ☐ I am married to _____
☐ I am not married.
3. My current address is _____
4. The following persons are dependent on me for support:

<i>Name(s) of Person(s) Dependent on Me</i>	<i>Age</i>	<i>Relationship</i>

5. I wish to claim as exempt (*keep from being taken*) my interest in the following real or personal property that I use as a residence. I also wish to claim my interest in the following burial plots for myself or my dependents. I understand that my total interest claimed in the residence and burial plots may not exceed \$10, 000.00.

Street Address of Residence

<i>County Where Property Located</i>	<i>Township</i>	<i>No. by Which Tax Assessor Identifies Property</i>
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Legal Description (Attach a copy of your deed or other instrument of conveyance or describe property in as much detail as possible. Attach additional sheets if necessary.)

Name(s) of Owner(s) of Record of Residence

Estimated Value of Residence (What You Think You Could Sell It For)

<i>Amount of Lien(s) and Name(s) and Address(es) of Lienholder(s)</i> <i>(How much money is owed on the property and to whom.)</i>	<i>Current Amount Owed</i>
	\$
	\$
<i>Location of Burial Plots Claimed</i>	<i>Value of Burial Plots Claimed</i>
	\$

NOTE TO DEBTOR (DEFENDANT): *The Clerk of Court cannot fill out this form for you. If you need assistance, you should talk with attorney.*

6. I wish to claim the following personal property consisting of household furnishings, households goods, wearing apparel, appliances, books, animals, crops or musical instruments as exempt from the claim of my creditors (in other words, keep them from being taken from me). These items of personal property are held primarily for my personal, family or household use.

I understand that I am entitled to personal property worth the sum of \$3,500.00. I understand that I am also entitled to an additional \$750.00 for each person dependent on me for support, but not to exceed \$3,000.00 for dependents. I further understand that I am entitled to this amount after deducting from the value of the property the amount of any valid lien or security interest. Property purchased within 90 days of this proceeding is not exempt.

(Some examples of households goods would be TV, appliances, furniture, clothing, radios, record players.)

Item of Property	Fair Market Value (What You Could Sell It For)	Amount of Lien Or Security Interest (Amount Owed on Property)	Name(s) of Lienholders(s) (To Whom Money is Owed)	Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amount Owed)
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$

7. I wish to claim my interest in the following motor vehicle as exempt from the claim of my creditors. I understand that I am entitled to my interest in one motor vehicle worth the sum of \$1,500.00 after deduction of the amount of any valid liens or security interests. I understand that a motor vehicle purchased within 90 days of this proceeding is not exempt.

<i>Make and Model</i>	<i>Year</i>	<i>Name(s) of Title Owner of Record</i>
<i>Fair Market Value (What You Could Sell It For)</i> \$		<i>Name(s) of Lienholder(s) or Record (Person(s) to Whom Money is Owed)</i>
<i>Amount of Liens (Amount Owed)</i> \$		<i>Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amt. Owed)</i> \$

8. (This item is to claim any other property you own that you wish to exempt.) I wish to claim the following property as exempt because I claimed residential real or personal property as exempt that is worth less than \$3,500.00, or I made no claim for a residential exemption under section (5) above. I understand that I am entitled to \$3,500.00 in any property only if I made no claim under section (5) above and that if I make a claim under section (5), that I am entitled to \$3,500.00 in any property minus any amount I claimed under section (5). (Examples: claim of \$1,000.00 under section (5), \$2,500.00 allowed here; claim of \$3,600.00 under section (5), no claim allowed here; no claim under section (5), \$3,500.00 in any property allowed here.) I further understand that the amount of my claim under this section is after the deduction from the value of this property of the amount of any valid lien or security interests and that tangible personal property purchased within 90 days of this proceeding is not exempt.

Item Of Personal Property Claimed	Fair Market Value	Amount of Liens	Name(s) of Lienholder(s)	Value of Debtor's (Defendant's) Interest
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$

Real Property Claimed (I understand that if I wish to claim more than one parcel, I must attach additional pages setting forth the following information for each parcel claimed as exempt.)

Street Address		Estimated Value of Property (What You Could Sell It For)
		\$
County	Township	No. by Which Tax Assessor Identifies Property

Description (Attach a copy of your deed or other instrument of conveyance or describe the property in as much detail as possible)

Name and Address of Lienholder	Current Amount Owed
	\$
Name and Address of Lienholder	Current Amount Owed
	\$

(Attach additional sheets for more lienholders)

9. I wish to claim the following item of health care aid necessary for ☐ myself ☐ my dependents.

Item	Purpose

10. I wish to claim the following implements, professional books, or tools (not to exceed \$750.00), of my trade or the trade of my dependent. I understand that such property purchased within 90 days of this proceeding is not exempt.

Item	Estimated Value (What You Could Sell It For)	What Business or Trade Used In
	\$	
	\$	
	\$	
	\$	

11. I wish to claim the following life insurance policies whose sole beneficiaries are my spouse and/or children as exempt		
Name of Insurer	Policy No.	Beneficiary(ies)
12. I wish to claim as exempt the following compensation which I received for the personal injury of myself or a person whom upon whom I was dependent for support or compensation which I received for the death of a person upon whom I was dependent for support. I understand that this compensation is not exempt from claims for funeral, legal, medical, dental, hospital or health care charges related to the accident or injury which resulted in the payment of the compensation to me.		
Amount of Compensation \$ _____	Method of Payment: Lump Sum or Installments (If Installments, State Amount, Frequency and Duration of Payments)	
Location of Compensation		
13. I wish to claim my individual retirement accounts and individual retirement annuities (IRA's) that are listed below.		
<i>Name of Custodian of IRA Account</i>		<i>Account No.</i>
14. The following is a complete list of persons or business that have judgments for money against me.		
15. The following is a complete listing of all of my property which I have not claimed as exempt under any of the preceding paragraphs.		
Item	Location	Estimated Value
		\$
		\$
		\$
		\$
16. I certify that the above statements are true.		
<i>Date</i>		<i>Signature of Judgment Debtor (Defendant)</i>
17. A copy of this Motion was served on the judgment creditor (plaintiff) by: <input type="checkbox"/> delivering a copy to the judgment creditor (plaintiff) personally. <input type="checkbox"/> delivering a copy to _____, the judgment creditor's attorney <input type="checkbox"/> depositing a copy of this motion in a post-paid properly addressed wrapper in a post office, addressed to the judgment creditor (plaintiff) at the address shown on the notice of rights served on me. <input type="checkbox"/> depositing a copy of this Motion in a post-paid properly addressed wrapper in a post office, addressed to the judgment creditor's (plaintiff's) attorney at the following address:		
<i>Date</i>		<i>Signature of Judgment Debtor/Attorney for Debtor (Defendant)</i>
<i>Address and Phone No. of Attorney for Debtor (Defendant)</i>		